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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,423	09/26/2003	Akira Yoda	1982-0204P	5746
2292	7590	06/02/2008	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				NGUYEN, HUY THANH
ART UNIT		PAPER NUMBER		
2621				
NOTIFICATION DATE			DELIVERY MODE	
06/02/2008			ELECTRONIC	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/670,423	YODA, AKIRA	
	<b>Examiner</b>	<b>Art Unit</b>	
	HUY T. NGUYEN	2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 05 March 2008.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-11 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/5/08</u> .  | 6) <input type="checkbox"/> Other: _____ .                        |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claim 11 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 11 direct to information on a medium. Since the information does not provide any functional interrelationship to the medium to control the medium or access the information on the medium, or impart to any software and hardware structural components to provide certain function that is processed by a computer, the information themselves do not make them statutory. The claimed information is non-functional information, structural information or software program encoded on a computer readable medium and is read out to interact to any means to perform certain function. See MPEP 2100. Further the information on the medium is not read out by a computer and recognized by the computer to perform different applications for processing information or to define a series of nodes to be played (See Re Lowery and MPEP 2106.01). The claimed information is not encoded structural data to perform a certain function.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1 and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Parulski et al (7,057,648).

Regarding claims 1 and 11, Parulski discloses an image service providing apparatus (Fig. 1) comprising: an input unit for inputting a video image file obtained by adding, to video data representing a plurality of continuous still images photographed by a photographing device, attendant data (utilization information ) representing an image service corresponding to processing for the still images included in the video data, the image service being at least one of forming a still image, recording the video image file, distributing a still image or the video data , or editing the video\_data ; a setting unit for setting a type of the image service on the basis of the attendant data included in the video image file by the input unit (column 3, lines 30-40) ; and a processing unit for processing the image service for the video data included in the video image file input by the input unit on the basis of obtained the type of the image service set by the setting unit (column 3, line 35 to column 4, line 55).

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 2-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parulski et al in view of Schuetzle (6,762,791).

Regarding claim 2, Parulski does not teach the attendant data including the photographing condition of the photographing device at the time when the video data is obtained.

Schuetzle discloses an image service providing apparatus column 4,lines 25-57, column 5, column 9, lines 30-45, Fig. 1) having means for generating photographing conditions of the photographing device at a time when the video data is obtained (column 6, lines 45-55).

It would have been obvious to one of ordinary skill in the art to modify Parulski with Schuetzle by providing the apparatus of Parulski with a condition generating means as taught by Schuetzle in order to improve the quality of the images.

Regarding claim 3, Parulski as modified with Schuetzle further teaches the photographing conditions are common to the entire video image file (See Schuetzle, column 5, lines 35-48, column 6, and lines 13-25).

Regarding claim 4, Parulski as modified with Schuetzle further teaches photograph conditions differs from still images (Schuetzle, column 5, lines 40-48).

Regarding claim 5, Parulski as modified with Schuetzle further the attendant data includes a concealed condition for setting the video data to make it possible to process the video data (Schuetzle column 4, lines 25-40, column 9, and lines 30-45).

Regarding claim 6, Parulski as modified Schuetzle discloses the processing unit includes an image forming unit for forming a still image on a recording material (Schuetzle, column 7, lines 40-65).

Regarding claim 7, Parulski as modified Schuetzle teaches the processing unit includes an image recording unit for recording the video image file on a recording medium (Schuetzle, column 6, lines 55-65, column 7, lines 15-25 and 40-65).

Regarding claim 8, Parulski as modified with Schuetzle further teaches the processing unit includes an image distribution unit for distributing a still image to another apparatus (Schuetzle, column 7, lines 15-50).

Regarding claim 9, Parulski as modified Schuetzle teaches the processing unit includes a video editing unit for editing the video data, and processes the edited video data edited by the video editing unit as the video data. (column 9, lines 25-65).

Regarding claim 10, Parulski as modified with Schuetzle further teaches the processing unit includes an attendant data editing unit for editing the attendant data, and uses the edited attendant data edited by the attendant data editing unit as the attendant data (Schuetzle , column 5,lines 40-48).

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Goldstein et al teaches apparatus for processing images based on the service information.
  
8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUY T. NGUYEN whose telephone number is (571)272-7378. The examiner can normally be reached on 8:30AM -6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/HUY T NGUYEN/  
Primary Examiner, Art Unit 2621

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